

Notice of Allowability

Application No.

10/670,454

Examiner

Stuart F. Baum

Applicant(s)

THOMAS ET AL.

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1638

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to papers filed 2/16/2007.
2. ☒ The allowed claim(s) is/are 22-27, 37-48 (renumbered 1-18).
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☒ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☒ Certified copies of the priority documents have been received in Application No. 09/719,108.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

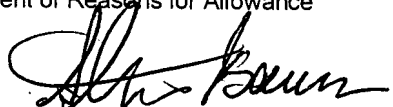
Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date See Continuation Sheet
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material

5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____


Stuart F. Baum

Continuation of Attachment(s) 3. Information Disclosure Statements (PTO/SB/08), Paper No./Mail Date: 9/26/2003 page 1 only.

EXAMINER'S AMENDMENT

RCE Acknowledgment

1. The request filed on 2/16/2007 for a Request for Continued Examination (RCE) under 37 C.F.R. § 1.114, based on parent Application No. 10/670,454 is acceptable and a RCE has been established.

2. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

3. Authorization for this examiner's amendment was given in a telephone interview with Michele A. Cimbala on 4/27/2007.

4. IN THE CLAIMS:

--22. (Currently amended) A plant cell [that has been] transformed with a vector [having] comprising a nucleic acid molecule [that is] operatively linked to a promoter, wherein the nucleic acid molecule encodes a polypeptide having [and expresses a polypeptide, wherein the expressed said polypeptide has] gibberellin 2-oxidase enzyme activity, and wherein said nucleic acid molecule hybridizes to the complement of the coding region of SEQ ID NO:1 under stringent conditions that comprise hybridization at 65°C and washing in 0.1X SSC / 0.1% SDS at 68°C.--

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--25. (Currently amended) The plant cell of claim 22, wherein said nucleic acid molecule comprises nucleotides 68 to 1063 of SEQ ID NO:1.

26. (Currently amended) The plant cell of claim 25, wherein said nucleic acid molecule comprises SEQ ID NO: 1.

27. (Currently amended) The plant cell of claim 22, wherein said nucleic acid molecule encodes a polypeptide with an amino acid sequence consisting essentially of SEQ ID NO:2.--

--44.(Currently amended) A plant material capable of proliferation, obtained from the plant [cell] of claim 43, wherein said plant material capable of proliferation comprises said transformed plant cell.--

--46. (Currently amended) [The] A plant comprising the plant cell [as in] of any one of claims 22-27 and 37-42, wherein the plant has a reduced height and a delayed or absent inflorescence development as compared to a non-transformed plant and wherein application of GA₃ to said plant produces a plant with increased stem elongation and normal flower development [, as compared to that of a nontransformed plant, a plant grown from said transformed plant cell has a reduced height, and a delayed or absent inflorescence development that can be reversed by the application of GA3].

47. (Currently amended) The transgenic plant of claim 43, wherein the plant has a reduced height and a delayed or absent inflorescence development as compared to a non-transformed plant and wherein application of GA₃ to said plant produces a plant with increased stem elongation and normal flower development [, as compared to that of a nontransformed

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plant, said plant has a reduced height, and a delayed or absent inflorescence development that can be reversed by the application of GA₃].

48. (Currently amended) The plant material [as in] of any one of claims 44 and 45, wherein a plant grown from said plant material has a reduced height and a delayed or absent inflorescence development as compared to a non-transformed plant and wherein application of GA₃ to said plant produces a plant with increased stem elongation and normal flower development [, as compared to that of a nontransformed plant, a plant grown from said transformed plant cell has a reduced height, and a delayed or absent inflorescence development that can be reversed by the application of GA₃].--

Reasons for Allowance

5. The following is an examiner's statement of reasons for allowance: support for "a plant grown from said plant material has a reduced height and a delayed or absent inflorescence development as compared to a non-transformed plant and wherein application of GA₃ to said plant produces a plant with increased stem elongation and normal flower development" in the Examiner's amendment to claims 46-48 can be found on page 26, lines 4-28.

Claims 22-27 and 37-48 are deemed free of the prior art, given the failure of the prior art to teach or reasonably suggest a plant cell or plant transformed with a vector comprising a nucleic acid molecule operably linked to a promoter, wherein the nucleic acid molecule encodes a polypeptide having gibberellin 2-oxidase enzyme activity and wherein said nucleic acid molecule hybridizes to the complement of the coding region of SEQ ID NO:1 under conditions that comprise hybridization at 65°C and washing in 0.1X SSC / 0.1% SDS at 68°C.


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Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stuart F. Baum whose telephone number is 571-272-0792. The examiner can normally be reached on M-F 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anne Marie Grunberg can be reached at 571-272-0975. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 571-272-1600.



Stuart F. Baum Ph.D.
Primary Examiner
Art Unit 1638
April 25, 2007

STUART F BAUM, PH.D.
PRIMARY EXAMINER